



# **REPORT ON RAPE IN JAILS IN THE U.S.**

Based On Public Hearings and Review Of  
Documentary Evidence By  
**The Review Panel On Prison Rape**

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**Findings And Best Practices**

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## **II. Role Of The Review Panel On Prison Rape**

According to the Prison Rape Elimination Act of 2003 (“PREA”)<sup>1</sup>, the duty of the Review Panel on Prison Rape (“Panel”) is to hold hearings, based on statistics gathered by the Bureau of Justice Statistics (BJS), concerning the operation of the three correctional facilities with the highest incidence of rape and the two facilities with the lowest incidence of rape in each of the three categories of facilities identified under Section (4)(c)(4) of the statute. 42 U.S.C. § 15603(b)(3)(A). In addition to the category of Federal and State prisons as defined in the statute, the Attorney General has defined local jails and juvenile facilities as the other two categories.

The purpose of the hearings is to aid BJS in the identification of common characteristics of victims and perpetrators of rape in these correctional facilities, as well as of those facilities and systems that have the highest and lowest incidence of rape.<sup>2</sup> *Id.*

*Methodology.* In producing this report on those public hearings, the Panel has used the following methodology to identify those common characteristics of the U.S. jails surveyed by BJS. Utilizing the BJS report entitled *Sexual Victimization in Local Jails Reported by Inmates, 2007*, which was published in June 2008, the Panel identified four jails among those reported to have the highest prevalence of sexual victimization and three jails among those reported by surveyed inmates to have the lowest prevalence. *See* Section III.A. below. Then the Panel sent to each of those jails requests for relevant documents and then reviewed the documents each

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<sup>1</sup> Public Law 108-79, 117 Stat. 972 (codified as amended at 42 U.S.C. §§ 15601-15609 (2006)).

<sup>2</sup> Under PREA, the Panel is to conduct hearings “to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.” 42 U.S.C. § 15603(b)(3)(A).

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produced.<sup>3</sup> Next the Panel sent each of the chosen facilities a list of requested witnesses who were invited to give sworn testimony at each hearing. At least one Panel member toured each of the chosen facilities to get a comprehensive first-hand look at it; such tours lasted on average between 2 to 5 hours each. Finally, the Panel received sworn testimony in one-day public hearings on each of the chosen facilities either in Washington, D.C., or at a location near the jail, questioning jail employees and officers about the jail's policies, practices, training, inmate education, surveillance and reporting mechanisms, investigations, as well as the documents produced by that jail.

**II. Panel Members And Staff**

In accordance with PREA, the Attorney General, in consultation with the Secretary of the Department of Health and Human Services, appointed the members of the Panel. Members of the Panel who participated in the 2008 hearings regarding sexual assault in jails were Ms. Carroll Ann Ellis, Director, Victim Services Division, Fairfax County, Virginia, Police Department; Mr. Steven T. McFarland, Director, Task Force for Faith-Based and Community Initiatives, U.S. Department of Justice (DOJ); and Ms. Gwendolyn Chunn, retired Executive Director of the Juvenile Justice Institute, Center for Criminal Justice Research and International Initiatives, Department of Criminal Justice at North Carolina Central University, and past president of the American Correctional Association.

The Panel expresses its sincere appreciation to Robert Siedlecki, Jr., Senior Legal Counsel at the Task Force For Faith-Based and Community Initiatives, Office of the Deputy Attorney General, and to attorneys, staff and interns from the Office for Civil Rights in the DOJ

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<sup>3</sup> The Panel also requested and received supplemental documents after the hearings from some of the facilities whose witnesses testified.

Office of Justice Programs for their invaluable assistance to the Panel in arranging public hearings and reviewing voluminous hearing transcripts and documentary evidence.

### **III. Panel's 2008 Jail Hearings**

From August 27 through November 14, 2008, the Panel conducted hearings in response to the BJS National Inmate Survey released June 25, 2008 ("NIS"). The NIS surveyed 40,419 jail inmates in 282 local jails between April and December 2007.

#### **A. Selection of Jails Invited to Testify**

The NIS did not provide an exact ranking of the prevalence of sexual assault for the facilities in its statistical survey as required by PREA because BJS' estimates were based on a sample of inmates from 282 jail facilities rather than a complete enumeration and, consequently, its findings were subject to sampling error. On this basis, BJS was able to statistically identify a group of eighteen surveyed facilities with the highest reported rates of sexual victimization as well as eighteen facilities in which no incidents of sexual victimization were reported by inmates. The BJS report also included tables in the body of the survey and in the appendix which set forth in detail the tabulated results of the survey by facility and state. In light of the inability of BJS to provide an exact ranking of jail facilities based on the incidence of sexual assault, the Panel relied on the data in BJS' tables to select the facilities it invited to testify at its hearings in the fall of 2008.

The Panel invited the following three jails among the facilities surveyed by BJS with the lowest prevalence of sexual abuse to testify at a hearing: (1) Northwest Ohio Regional Correctional Center (Northwest Ohio); (2) Culpeper County (VA) Jail (Culpeper); and (3)

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Hampden County Western Massachusetts Correctional Alcohol Center (Hampden). The Panel chose Northwest Ohio because it had no reported incidents of sexual abuse and would provide a contrast with another jail in the same state that had one of the highest prevalence rates of sexual abuse and that would also be participating in the hearings. The Panel identified Culpeper because it too had no reported incidents but, unlike Northwest Ohio, was a much smaller facility (and thus representative of many of the nation's jails) with about the same response rate. The Panel chose Hampden because it likewise had no reported incidents and would allow the Panel to examine a specialized jail facility.

The Panel invited to a hearing the following jails with the highest prevalence of sexual abuse among those surveyed: (1) Tarrant County (TX) Detention Facility (Tarrant); (2) Bernalillo County (NM) Metropolitan Detention Center (Bernalillo); (3) Brevard County (FL) Detention Center (Brevard); and (4) Southeastern Ohio Regional Jail (Southeastern Ohio).

The Panel chose Tarrant because it had the highest rate of inmate sexual victimization among the 282 jails surveyed (*id.*, Table 2)<sup>4</sup>; the highest rate of nonconsensual sexual acts or abusive sexual contacts (*id.*, Table 4); and the highest rate of staff-on-inmate sexual victimization (*id.*, Appendix Table 4). In addition, Tarrant is a privately-run facility owned by Corrections Corporation of America and thus would give the Panel the opportunity to learn more about the risk of sexual victimization in such facilities as compared to public jails.<sup>5</sup>

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<sup>4</sup> As explained in its report on *Sexual Victimization in Local Jails Reported By Inmates, 2007*, this means that BJS calculated with 95% confidence that the true prevalence of sexual victimization in Tarrant County Detention Facility within six months of the survey date was between 5.4% and 21.4% of its inmates. The national average was 3.2%. Fifty-three surveyed facilities had victimization rates statistically similar to that of Tarrant.

<sup>5</sup> CCA responded constructively to the BJS survey and the Panel's inspection and hearing. After the hearing on Tarrant, CCA approved the hiring of up to 15 additional correctional officers for Tarrant. E-mail from Jail administrator Robert Ezell dated October 16, 2008 (unsworn testimony). During the Tarrant hearing, Jail administrator Ezell testified that CCA had approved funding for additional video cameras and windows into several

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The Panel chose Bernalillo because it had the third highest rate of inmate sexual victimization (*id.*, Table 2); the third highest rate of nonconsensual sexual acts (*id.*, Table 4); and the third highest rate of staff-on-inmate sexual victimization (*id.*, Appendix Table 4).

The Panel chose Brevard because it had the fourth highest rate of inmate sexual victimization (*id.*, Table 2); the second highest rate of nonconsensual sexual acts (*id.*, Table 4); and the highest rate of inmate-on-inmate sexual victimization (*id.*, Appendix Table 4).

The Panel chose Southeastern Ohio because it had the fifth highest rate of inmate sexual victimization (*id.*, Table 2); the third highest rate of nonconsensual sexual acts or abusive sexual contacts (*id.*, Table 4); and the second highest rate of staff-on-inmate sexual victimization (*id.*, Appendix Table 4).

According to BJS, the jails selected by the Panel are statistically similar to the jail with the highest rate of inmate sexual victimization, Torrance County. In other words, due to sampling error, BJS could not say that any of the four facilities were distinguishable from one another or from the facility with the highest reported rate.

The Panel held hearings on Brevard on August 27, 2008, on Northwest Ohio on September 10, 2008, on Southeastern Ohio on September 11, 2008, on Hampden on September 24, 2008,<sup>6</sup> on Torrance on September 30, 2008 and October 31,<sup>7</sup> on Bernalillo on October 1, and on Culpeper on November 14, 2008.

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blind spots. (Transcript of Hearing of Review Panel on Prison Rape [hereinafter Tr.], R. Ezell, 25:9 (Sept. 30, 2008) (Torrance).

<sup>6</sup> After this hearing, the Panel decided that the Hampden facility did not represent many if any of the nation's jails and, thus, would be less useful as one of only two low-incidence facilities from which to learn. On advice of legal counsel, the Panel selected another facility with no reported incidents, in Culpeper County, Virginia.

<sup>7</sup> This second hearing was done telephonically to receive the testimony of two current and former jail officials, respectively, Michael Varnum and Maria Sanchez, who were not able to attend the September 30, 2008, hearing.



After inspecting and holding hearings on Hampden, the Panel decided that the situation of inmates in this facility was quite impressive but too unique to be of benefit for inclusion in this report. For example, people convicted of sexual and other violent offenses were excluded from this facility, inmates were given keys to their rooms at the facility, and inmates extensively were able to leave the facility to engage in community programming and volunteer service, among other things. These special features of Hampden make it unrepresentative of a significant portion of the nation's jails.

The reader should bear in mind that PREA limits the number of jails which the Panel may engage in hearings. BJS is analyzing data from a much more representative sample of the nation's 3,500 jails, which may confirm the Panel's findings or surface new areas of exploration.

## **B. Identified Common Characteristics of Victims and Perpetrators of Sexual Victimization**

### **1. Identified Common Characteristics of Victims of Inmate-On-Inmate Sexual Victimization**

- a. Young or Youthful In Appearance*<sup>8</sup>
- b. Smaller Stature and Build; Physical Disability*<sup>9</sup>
- c. Past Victim of Sexual Assault*<sup>10</sup>

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<sup>8</sup> Tr., J. Dodson, 7:20 (Aug. 27, 2008) (Brevard); *id.*, T. Clay, 39:2-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Conrath, 172:4-5 (Sept. 11, 2008) (Southeastern Ohio); *id.*, A. Abeyta, 108:18-19 (Oct. 1, 2008) (Bernalillo); *id.*, K. Valerio, 120:8-13 (Bernalillo); *id.*, F. Maestas, 204:5-6 (Bernalillo); *id.*, P. Cordova, 228:21 (Bernalillo); *id.*, M. Sanchez, 24:23-25:6 (Oct. 31, 2008) (Torrance); *id.*, M. Varnum, 32:23 (Torrance); *id.*, D. Peters 107:14 (Nov. 14, 2008) (Culpeper)..).

<sup>9</sup> Tr., J. Dodson, 7:20-21 (Aug. 27, 2008) (Brevard); *id.*, S. Hill, 39:19 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 112:11-12, 121:11-14 (Northwest Ohio); *id.*, C. Eiden, 163:19-20 (Northwest Ohio); *id.*, R. Easterling, 38:11-14, 123:18, 130:10-11 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 329:21 (Southeastern Ohio); *id.*, R. Lucero, 46:16 (Sept. 30, 2008) (Torrance); *id.*, M. Sanchez, 26:2 (Oct. 31, 2008) (Torrance); *id.*, M. Varnum, 33:22 (Torrance); *id.*, A. Abeyta, 108:19-20 (Oct. 1, 2008) (Bernalillo); *id.*, K. Valerio, 120:19 (Bernalillo); *id.*, F. Maestas, 198:9 (Bernalillo); *id.*, P. Cordova, 228:21 (Bernalillo); *id.*, D. Peters 107:14 - 15 (Nov. 14, 2008) (Culpeper)..).

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- d. *First Time in Jail or New To This Jail*<sup>11</sup>
- e. *Homosexual or Transgender*<sup>12</sup>
- f. *Mental Illness, Learning Disability, Or Lower I.Q.*<sup>13</sup>
- g. *Low Self-Confidence or Projection of Feeling of Fear; Non-Aggressive*<sup>14</sup>
- h. *Lack of Gang Affiliation*<sup>15</sup>
- i. *Criminal History: Prostitution or Sex Offense*<sup>16</sup> *or Less Serious Crime*<sup>17</sup>

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<sup>10</sup> Tr., J. Dodson, 57:14 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton, 252:1-5 (Brevard); *id.*, T. Clay, 35:6, 39:10-13 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Hill, 35:9-21 (Northwest Ohio); *id.*, S. Garza-Romero, 112:20-12, 121:11-12 (Northwest Ohio); *id.*, C. Blue, 263:18-20 (Sept. 30, 2008) (Torrance); *id.*, P. Cordova, 228:21 (Oct. 1, 2008) (Bernalillo); *id.*, M. Sanchez, 29:7, 14-15 (Oct. 31, 2008) (Torrance).

<sup>11</sup> Tr., J. Dodson, 7:21-23 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton, 273:19-20 (Brevard); *id.*, S. Hill, 39:20-21 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 151:5-13 (Northwest Ohio); *id.*, C. Eiden, 163:18-19 (Northwest Ohio); *id.*, R. Easterling, 124:1, 130:10-11 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 172:6 (Southeastern Ohio); *id.*, J. VanBibber, 242:15 (Southeastern Ohio); *id.*, J. Tolson, 331:14-332:5 (Southeastern Ohio); *id.*, J. Corral, 47:3-4 (Sept. 30, 2008) (Torrance); *id.*, C. Blue, 263:16-18 (Torrance); *id.*, M. Sanchez, 24:25-25:6 (Oct. 31, 2008) (Torrance); *id.*, M. Varnum, 32:25 (Torrance); *id.*, A. Abeyta, 108:12-13 (Oct. 1, 2008) (Bernalillo); *id.*, K. Valerio, 120:8-9 (Bernalillo); *id.*, F. Maestas, 197:5-6 (Bernalillo); *id.*, P. Cordova, 209:2 (Bernalillo); *id.*, D. Peters 108:14-109:1-11 (Nov. 14, 2008) (Culpeper)

<sup>12</sup> Tr., J. Dodson, 8:20-25 (Brevard); *id.*, S. Hill, 40:3-4 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 112:12-13 (Northwest Ohio); *id.*, C. Eiden, 164:7-9 (Northwest Ohio); *id.*, R. Easterling, 123:12 (Sept. 11, 2008) (Southeastern Ohio); *id.*, L. Rhodes, 172:17-18 (Southeastern Ohio); *id.*, J. VanBibber, 242:11 (Southeastern Ohio); *id.*, J. Corral, 47:14 (Sept. 30, 2008) (Torrance); *id.*, R. Lucero, 47:17 (Torrance); *id.*, M. Sanchez, 24:3-5 (Oct. 31, 2008) (Torrance); *id.*, A. Abeyta, 109:3-4 (Oct. 1, 2008) (Bernalillo); *id.*, K. Valerio, 120:19-22 (Bernalillo); *id.*, F. Maestas, 204:12-14 (Bernalillo); *id.*, P. Cordova, 229:8 (Bernalillo); *id.*, D. Peters 108:22 – 109:11 (Nov. 14, 2008) (Culpeper).

<sup>13</sup> Tr., J. Dodson, 15:23-16:2 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton 274:2-3 (Brevard); *id.*, S. Hill, 40:1-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 121:12-13 (Northwest Ohio); *id.*, M. Zartman, 124:11 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 172:5-6 (Southeastern Ohio); *id.*, J. VanBibber, 242:10-11 (Southeastern Ohio); *id.*, J. Tolson, 329:6-10 (Southeastern Ohio); *id.*, F. Maestas, 197:10-12 (Oct. 1, 2008) (Bernalillo); *id.*, P. Cordova, 228:21 (Bernalillo); *id.*, M. Sanchez, 23:5-24:5 (Oct. 31, 2008) (Torrance); *id.*, M. Varnum, 33:6-7 (Torrance); *id.*, D. Peters 115:9-14 (Nov. 14, 2008) (Culpeper)

<sup>14</sup> Tr., O. Clayton, 273:24 (Aug. 27, 2008) (Brevard); *id.*, T. Clay, 39:3-6 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 112:19-20 (Northwest Ohio); *id.*, C. Eiden, 163:20 (Northwest Ohio); *id.*, J. Conrath, 172:9-10 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 329:1-5 (Southeastern Ohio); *id.*, R. Lucero, 46:16-20 (Sept. 30, 2008) (Torrance); *id.*, F. Maestas, 197:6 (Oct. 1, 2008) (Bernalillo); *id.*, P. Cordova, 209:2-3 (Bernalillo); *id.*, D. Peters 109:15-110:5 (Nov. 14, 2008) (Culpeper) .

<sup>15</sup> Tr., D. Sullivan, 282:12-22 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Lucero, 46:20-47:1 (Sept. 30, 2008) (Torrance); *id.*, P. Cordova, 209:20-21 (Oct. 1, 2008) (Bernalillo).

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- j. Reputation Among Staff As Untruthful*<sup>18</sup>
- k. Money: Access To*<sup>19</sup> *or Lack Of It*
- l. Promiscuous or Provocative Behavior*<sup>20</sup>
- m. In Protective Custody*<sup>21</sup>
- n. Male Inmate With Feminine Mannerisms or Features*<sup>22</sup>

**2. Identified Common Characteristics of Victims of Staff-On-Inmate Sexual Victimization**

- a. Confident*<sup>23</sup>
- b. Recidivist; “Street Smart”*<sup>24</sup>
- c. Serving Longer Term*<sup>25</sup>

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<sup>16</sup> Tr., R. Easterling, 95:13-15,17-20 (Sept. 11, 2008) (Southeastern Ohio); *id.*, F. Maestas, 229:13 (Oct. 1, 2008) (Bernalillo); *id.*, P. Cordova, 229:8 (Bernalillo); *id.*, M. Varnum, 33:3-6 (Oct. 31, 2008) (Torrance).

<sup>17</sup> Tr., P. Cordova, 228:5-7 (Oct. 1, 2008) (Bernalillo).

<sup>18</sup> Tr., D. Sullivan, 280:5-7 (Sept. 10, 2008) (Northwest Ohio).

<sup>19</sup> Tr., J. Dodson, 8:9-14 (Aug. 27, 2008) (Brevard); *id.*, J. Eddy, 243:15-16, 19-20 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Lucero, 45:5-8 (Sept. 30, 2008) (Torrance); *id.*, M. Varnum 33:1-3 (Oct. 31, 2008) (Torrance).

<sup>20</sup> Tr., S. Garza-Romero, 112:21-22, 121:12 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 150:17-22 (Northwest Ohio); *id.*, K. Valerio, 121:10-15 (Oct. 1, 2008) (Bernalillo).

<sup>21</sup> Tr., P. Cordova, 232:7, 11-16 (Oct. 1, 2008) (Bernalillo).

<sup>22</sup> Tr., J. Dodson, 8:24 (Aug. 27, 2008) (Brevard); *id.*, S. Garza-Romero, 112:12 (Sept. 10, 2008) (Northwest Ohio); *id.*, P. Cordova, 208:20-22 (Oct. 1, 2008) (Bernalillo); *id.*, M. Varnum, 32:23-25 (Oct. 31, 2008) (Torrance).

<sup>23</sup> Tr., O. Clayton, 289:7-9 (Aug. 27, 2008) (Brevard).

<sup>24</sup> *Id.* at 289:8-9.

<sup>25</sup> Tr., J. Corral, 133:6-13 (Sept. 30, 2008) (Torrance).

**3. Identified Common Characteristics of Inmate Perpetrators of Sexual Victimization**

- a. *Bigger Stature or Build*<sup>26</sup>
- b. *Past Victim of Sexual Assault*<sup>27</sup>
- c. *Experienced Repeat Offender*<sup>28</sup>
- d. *History of Acting Out or Engaging in Violence, Including Sexual Assault*<sup>29</sup>
- e. *Creditor of Victim (Extortioner)*<sup>30</sup>
- f. *Desirous of Power or Control*<sup>31</sup>
- g. *More Verbal, Aggressive, Extroverted*<sup>32</sup>
- h. *Extremely Self-Confident*<sup>33</sup>

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<sup>26</sup> Tr., S. Garza-Romero, 126:16, 18 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 153:8 (Northwest Ohio); *id.*, J. Eddy, 247:12-16 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 332:12 (Southeastern Ohio); *id.*, R. Lucero, 74:6 (Sept. 30, 2008) (Torrance); *id.*, D. Peters 113:12 (Nov. 14, 2008) (Culpeper)..)

<sup>27</sup> Tr., O. Clayton, 252:6-8, 291:9-12 (Aug. 27, 2008) (Brevard); *id.*, T. Clay, 44:19-20 (Sept. 10, 2008) (Northwest Ohio); *id.*, P. Cordova, 228:17-18 (Oct. 1, 2008) (Bernalillo).

<sup>28</sup> Tr., S. Garza-Romero, 126:14-15 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 152:18-21 (Northwest Ohio); *id.*, R. Easterling, 116:10 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 332:8-9 (Southeastern Ohio); *id.*, A. Abeyta, 130:5-10 (Oct. 1, 2008) (Bernalillo); *id.*, M. Varnum, 33:14-15 (Oct. 31, 2008) (Torrance); *id.*, D. Peters 115:3-6 (Nov. 14, 2008) (Culpeper)..)

<sup>29</sup> Tr., S. Garza-Romero, 126:19, 21, 127:2-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, K. Valerio, 125:11-20 (Oct. 1, 2008) (Bernalillo); *id.*, A. Abeyta, 130:11-17 (Bernalillo); *id.*, M. Varnum, 33:16-18 (Oct. 31, 2008) (Torrance). .

<sup>30</sup> Tr., J. Eddy, 247:14 (Sept. 11, 2008) (Southeastern Ohio); *id.*, P. Cordova, 206:21-207:4 (Oct. 1, 2008) (Bernalillo).

<sup>31</sup> Tr., S. Hill, 47:13-17 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 153:18-20 (Northwest Ohio); *id.*, J. Tolson, 332:8 (Sept. 11, 2008) (Southeastern Ohio); *id.*, K. Valerio, 125:16-20 (Oct. 1, 2008) (Bernalillo); *id.*, D. Peters 113: 5 (Nov. 14, 2008) (Culpeper); *id.*, V. Washington 113: 6-7 (Nov. 14, 2008). .

<sup>32</sup> Tr., O. Clayton, 291:13-16 (Aug. 27, 2008) (Brevard); *id.*, S. Garza-Romero, 127:5 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Tolson, 332:15-17 (Sept. 11, 2008) (Southeastern Ohio).

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- i. Manipulative, Knows Human Psychology*<sup>34</sup>
- j. Serving Longer Term*<sup>35</sup>
- k. Gang Affiliated*<sup>36</sup>
- l. Mentally Challenged*<sup>37</sup>

**4. Identified Common Characteristics of Staff Perpetrators of Jail Rape**

- a. Low Self-Esteem, Insecure, Depressed*<sup>38</sup>
- b. Relational Problems At Home*<sup>39</sup>
- c. Financial Problems*<sup>40</sup>
- d. Knew Inmate Prior To Incarceration*<sup>41</sup>
- e. Desirous Of Power Or Control*<sup>42</sup>

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<sup>33</sup> Tr., J. Corral, 74:6 (Sept. 30, 2008) (Torrance).

<sup>34</sup> *Id.* at 133:17-22.

<sup>35</sup> Tr., T. Parker, 152:18-22, 153:5-7 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Corral, 74:5, 133:12-13 (Sept. 30, 2008) (Torrance); *id.*, K. Valerio, 125:12-13 (Oct. 1, 2008) (Bernalillo).

<sup>36</sup> Tr., J. Dodson, 13:4-17 (Aug. 27, 2008) (Brevard); *id.*, T. Parker, 154:6-8 (Sept. 10, 2008) (Northwest Ohio); *id.*, D. Sullivan, 281:21-22 (Northwest Ohio); *id.*, J. Corral, 74:4-5, 75:2 (Sept. 30, 2008) (Torrance).

<sup>37</sup> Tr., R. Easterling, 116:21-117:6 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Corral, 74:3-4 (Sept. 30, 2008) (Torrance); *id.*, D. Peters 115:13-14 (Nov. 14, 2008) (Culpeper).

<sup>38</sup> Tr., J. Dodson, 29:17-18 (Aug. 27, 2008) (Brevard); *id.*, S. Hill, 50:21 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Kuntz, 130:4-5 (Northwest Ohio); *id.*, R. Easterling, 133:1-4 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Corral, 81:15-16 (Sept. 30, 2008) (Torrance); *id.*, F. Maestas, 215:17-18, 20-21 (Oct. 1, 2008) (Bernalillo); *id.*, M. Varnum, 34:7 (Oct. 31, 2008) (Torrance).

<sup>39</sup> (Tr., J. Dodson, 29:17-18 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton, 290:1-5 (Brevard); *id.*, S. Hill, 50:21 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Lucero, 81:20-21 (Sept. 30, 2008) (Torrance)).

<sup>40</sup> Tr., S. Hill, 50:21, 51:2-4 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Corral, 81:16 (Sept. 30, 2008) (Torrance); *id.*, F. Maestas, 215:22 (Oct. 1, 2008) (Bernalillo).

<sup>41</sup> Tr., J. Dodson, 22:2-10 (Aug. 27, 2008) (Brevard).

- f. Too Involved with Inmate's Case, Feels Sorry*<sup>43</sup>
- g. Romantically Attracted to Inmate (More Likely to be Female Officer)*<sup>44</sup>
- h. Previously Smuggled Contraband To Extorting Inmate "Victim"*<sup>45</sup>

**C. Common Characteristics of Jail Systems With High or Low Prevalence of Sexual Assault**

**1. Identified Characteristics Present In Jails With Low Prevalence of Sexual Victimization and Absent from One or More Jails with a High Prevalence of Sexual Victimization**

After reviewing the documentary and testimonial evidence provided in connection with the Panel's hearings, the Panel identified two characteristics that were common to Northwest Ohio and Culpeper, which were the jails with low prevalence rates of rape, and absent in one or more of the jails with a high prevalence of sexual victimization that participated in the hearings. While these factors were common to the low prevalence jails, they were not unique to them, in that they were also shared by one or more of the high prevalence jails as well.

- a. Jail administrator is demonstrably committed to prevention of SA.<sup>46</sup>
- b. Most high risk areas in the facility have adequate video camera surveillance.<sup>47</sup>

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<sup>42</sup> Tr., C. Kuntz, 130:7-8 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 131:2-3 (Northwest Ohio)).

<sup>43</sup> Tr., J. Dodson, 28:17-19 (Aug. 27, 2008) (Brevard); *id.*, P. Cordova, 216:17-22 (Oct. 1, 2008) (Bernalillo)).

<sup>44</sup> Tr., J. Corral, 82:11 (Sept. 30, 2008) (Torrance); *id.*, M. Varnum, 34:4-100 (Oct. 31, 2008) (Torrance); *id.*, P. Cordova, 216:17-217:12 (Oct. 1, 2008) (Bernalillo).

<sup>45</sup> Tr., J. Dodson, 25:8-12 (Aug. 27, 2008) (Brevard); *id.*, R. Lucero, 135:5-13 (Sept. 30, 2008) (Torrance); *id.*, P. Cordova, 186:7-9, 14 (Oct. 1, 2008) (Bernalillo).

<sup>46</sup> *Compare* Tr., J. Dennis, 260:15-20 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Branch, 9:2-22, 12:2-11 (Nov. 14, 2008) (Culpeper), unsworn testimony, *with id.*, R. Easterling & M. Zartman, 75:4-76:6 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 273:4-6, 289:21-290:16 (Southeastern Ohio).

- c. Jail medical staff have some training in diagnosing sexual assault and obtaining evidence of it.<sup>48</sup>

The fact that the two jails with low prevalence rates of rape had only three characteristics in common argues for further study of the characteristics of such jails. Areas for further study may include the size of the jail (larger or multi-county regional versus smaller single-county), types of inmates confined to the jail (all offenders versus specialized ones), and location of the jail (urban versus rural setting).

## **2. Identified Unique Characteristics of Jails With High Prevalence of Rape**

After reviewing the documentary and testimonial evidence provided in connection with the Panel's hearings, the Panel identified twelve characteristics that were shared by at least two of those jails with a high prevalence of rape that participated in the hearings and absent in at least one of the jails with a low prevalence of rape:

- a. Overcrowded;<sup>49</sup>
- b. High rates of turnover among correctional officers;<sup>50</sup>
- c. Indirect supervision; too many idle inmates without direct supervision;<sup>51</sup>

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<sup>47</sup> Compare Tr., J. Dennis, 267:14-286:19 (Sept. 10, 2008) (Northwest Ohio); *id.*, D. Sullivan, 318:4-15 (Northwest Ohio); *id.*, J. Jenkins, 140:13-18, 150:11-18, 151:10-15 (Nov. 14, 2008) (Culpeper); *with id.*, G. Robertson, 208:4-5 (Aug. 27, 2008) (Brevard).

<sup>48</sup> Tr., S. Garza-Romero 104:19-21 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Lane 186:21-187:3 (Nov. 11, 2008) (Culpeper).

<sup>49</sup> Compare Tr., G. Robertson, 183:21, 242:24-243:4 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton, 286:19 (Brevard); *id.*, J. Ellis, 267:4-14 (Oct. 1, 2008) (Bernalillo), *with id.*, J. Dennis, 275:18-277:4 (Sept. 10, 2008) (Northwest Ohio).

<sup>50</sup> Compare Tr., S. Jeter, 306:23-307:11 (Aug. 27, 2008) (Brevard); *id.*, R. Easterling, 70:8-9 (Sept. 11, 2008) (Southeastern Ohio), *with id.*, J. Dennis, 298:2-6 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Hill, 334:12-335:2 (Northwest Ohio); *id.*, D. Brooks, 180:15 (Nov. 14, 2008) (Culpeper).

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- d. Correctional officer in the master control unit is too busy to supervise and has too many pods to watch;<sup>52</sup>
- e. Do not screen for past SA (as victim or perpetrator) when making housing assignments;<sup>53</sup>
- f. Do not ask about sexual orientation at intake;<sup>54</sup>
- g. Do not adequately train staff about PREA and SA prevention, policy and consequences;<sup>55</sup>
- h. Do not train medical staff in how to preserve evidence of SA;<sup>56</sup>
- i. Do not adequately train any staff in SA investigation procedures;<sup>57</sup>
- j. Do not have sufficient video camera surveillance;<sup>58</sup>

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<sup>51</sup> *Compare Tr.*, G. Robertson, 206:8-12 (Aug. 27, 2008) (Brevard); *id.*, M. Zartman, 59:7-9 (Sept. 11, 2008) (Southeastern Ohio), *with id.*, C. Eiden, 163:4-9 (Sept. 10, 2008) (Northwest Ohio).

<sup>52</sup> *Compare Tr.*, G. Robertson, 206:8-12 (Aug. 27, 2008) (Brevard); *id.*, M. Zartman, 59:7-9 (Sept. 11, 2008) (Southeastern Ohio), *with id.*, C. Eiden, 163:4-9 (Sept. 10, 2008) (Northwest Ohio).

<sup>53</sup> *Compare Tr.*, J. Eddy, 249:15-18 (Sept. 11, 2008) (Southeastern Ohio); *id.*, A. Abeyta, 430:12-17 (Oct. 1, 2008) (Bernalillo), *with id.*, C. Kuntz, 91:9-95:15 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Garza-Romero, 103:17-104:3 (Northwest Ohio).

<sup>54</sup> *Compare Tr.*, R. Foster, 229:7, 9, 11, 235:25-236:2 (Aug. 27, 2008) (Brevard); *id.*, M. Zartman, 118:8 (Sept. 11, 2008) (Southeastern Ohio), *with id.*, C. Kuntz, 92:2-6 (Sept. 10, 2008) (Northwest Ohio).

<sup>55</sup> *Compare Tr.*, M. Zartman, 11:10-11 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Lucero, 41:17- 42:20 (Sept. 30, 2008) (Torrance), *with id.*, J. Dennis, 261:8-14 (Sept. 10, 2008) (Northwest Ohio).

<sup>56</sup> *Compare Tr.*, L. Rhodes, 163:7 (Sept. 11, 2008) (Southeastern Ohio); *id.*, B. Campbell, 181:19-182:8 (Sept. 30, 2008) (Torrance); *id.*, H. Perea, 293:18-295:6 (Oct. 1, 2008) (Bernalillo); *id.*, C. Cook, 295:7-296:12 (Bernalillo), *with id.*, S. Garza-Romero, 105:9-12 (Sept. 10, 2008) (Northwest Ohio); *id.*, V. Washington & D. Peters, 90:1-6 (Nov. 14, 2008) (Culpeper); *id.*, C. Lane, 186:16-189:22 (Culpeper)].

<sup>57</sup> *Compare Tr.*, J. Tolson, 276:5 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Ellis, 298:6-9 (Oct. 1, 2008) (Bernalillo), *with id.*, S. Hill, 8:8-9:8, 10:2-11:6 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Clay, 12:6-21 (Northwest Ohio).

<sup>58</sup> *Compare Tr.*, G. Robertson, 208:4-5 (Aug. 27, 2008) (Brevard); *id.*, R. Ezell, 25:8-10 (Sept. 30, 2008) (Torrance); *id.*, J. Ibarra, 282:3-7 (Torrance), *with id.*, J. Dennis, 267:14-286:19 (Sept. 10, 2008) (Northwest Ohio); *id.*, D. Sullivan, 318:4-15 (Northwest Ohio); *id.*, J. Jenkins, 169:1-15 (Nov. 14, 2008) (Culpeper).



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- k. Do not have adequate minimum standards for new correctional officers;<sup>59</sup>
- l. Rarely refer alleged sexual assault cases to prosecutor or outside investigator;<sup>60</sup>
- m. Do not give new inmates written materials on preventing and reporting SA;<sup>61</sup> and
- n. Do not train volunteers about avoiding sexual victimization.<sup>62</sup>

**3. Identification of Additional Characteristics of Both Jails With High and With Low Prevalence of Sexual Victimization**

In the preceding sections of this report, the Panel identifies (1) those characteristics that were true of the two jails with a low prevalence of sexual victimization but absent in one or more of the jails with a high prevalence of sexual victimization (*see* Section C.1. above), and (2) those characteristics that were absent in one or more of the “low prevalence” jails but true of at least two of the “high prevalence” jails (*see* Section C.2. above).

In this section, the Panel also identifies those characteristics that were shared by at least one “low prevalence” jail and at least one of the four “high prevalence” jails. The Panel believes it important to identify these common characteristics to emphasize that there may be a pivotal

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<sup>59</sup> *Compare* Tr., R. Easterling, 67:16 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Ezell, 303:16-304:6 (Sept. 30, 2008) (Torrance), *with id.*, S. Hill, 29:22-30:20 (Sept. 10, 2008) (Northwest Ohio).

<sup>60</sup> *Compare* Tr., J. Dodson, 126:11-17 (Aug. 27, 2008) (Brevard); *id.*, R. Easterling, 40:11-17, 143:5-8 (Sept. 11, 2008) (Southeastern Ohio); *id.*, M. Zartman, 137:1-3 (Southeastern Ohio); *id.*, C. Blue, 232:4-5, 8-13 (Sept. 30, 2008) (Torrance); *id.*, J. Ibarra, 252:21-253:9 (Torrance); *id.*, M. Varnum, 47:3-8 (Oct. 31, 2008) (Torrance), *with id.*, J. Dennis, 301:11-17 (Sept. 10, 2008) (Northwest Ohio).

<sup>61</sup> *Compare* Tr., T. Clay, 22:7-10 (Sept. 10, 2008) (Northwest Ohio); *id.*, D. Peters, 116:10-13 (Nov. 14, 2008) (Culpeper), *with* J. Aragon 212: 9-15 (Sept. 30, 2008) (Torrance); L. Rhodes 535:21-536:2 (Sept. 11, 2008) (SEOH).

<sup>62</sup> *Compare* Tr. S. Hill 24:5-20 (September 10, 2008) (Northwest Ohio) *with* Tr. C. Lane 170:18-173:5; J. Jenkins 174:8-19 (Nov. 14, 2008) (Culpeper). E. Worsham 346:19 - 347:5 (October 1, 2008) (Bernalillo); R. Williams 161:21-162:4 (August 28, 2008) (Brevard)

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difference between policies on paper and how – or whether – those policies are actually implemented. Following some factors, the Panel suggests a more probative question that may explain how that factor can be true of both the “high” and “low” jails.

At least one of the “low prevalence” jails and at least one of the “high prevalence” jails:

- a. *Prohibit pornography*<sup>63</sup>
- b. *Prohibit female COs from patting down male inmates*<sup>64</sup>
- c. *Require COs to work significant amounts of mandatory overtime*<sup>65</sup>

- d. *Have a phone “hotline” available to inmates*<sup>66</sup>

- but do they inform inmates that it is for reporting SA victimization<sup>67</sup>, not just “snitching” in general? Is the phone located in the cellblock and situated where a private call could be discreetly made without threat of reprisal?

- e. *Have adequate programming for inmates.*<sup>68</sup>

- but what percentage of the jail population can be occupied constructively at one time?

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<sup>63</sup> See, e.g., Tr., T. Parker, 187:18-20, 225:4-7 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Eiden, 225:8, 12 (Northwest Ohio); *id.*, D. Peters, 91:8-10 (Nov. 14, 2008) (Culpeper); *id.*, S. Jeter, 308:25 (Aug. 27, 2008) (Brevard); *id.*, M. Zartman, 140:16-18 (Sept. 11, 2008) (Southeastern Ohio).

<sup>64</sup> See, e.g., Tr., T. Clay, 29:7-17 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Dennis, 330:11-19 (Northwest Ohio); *id.*, J. Eddy, 246:10-22 (Sept. 11, 2008) (Southeastern Ohio).

<sup>65</sup> See, e.g., Tr., V. Washington, 44:9-14 (Nov. 14, 2008) (Culpeper); *id.*, J. Conrath, 193:1-14 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Corral, 130:13-132:7 (Sept. 30, 2008) (Torrance); *id.*, P. Cordova, 243:3-7 (Oct. 1, 2008) (Bernalillo).

<sup>66</sup> See, e.g., Tr., T. Clay, 15:11-16:8 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Lucero, 95:16-21 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 96:7-17 (Torrance); *id.*, M. Zartman, 105:1-10 (Sept. 11, 2008) (Southeastern Ohio) (hotline added after *Sexual Victimization Survey* was administered).

<sup>67</sup> Tr., R. Lucero, 95:16-21 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 96:7-17 (Torrance).

<sup>68</sup> See, e.g., Tr., S. Hill, 25:4-8, 36:21-37:5 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Jeter, 325:17-326:25 (Aug. 27, 2008) (Brevard); *id.*, R. Easterling & M. Zartman, 102:13-103:9 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Ezell, 32:2-33:6 (Sept. 30, 2008) (Torrance); *id.*, J. Dantis, 9:21-11:16 (Oct. 1, 2008) (Bernalillo).

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- f. *Discuss staff discipline for staff-on-inmate sexual misconduct with the remainder of staff*<sup>69</sup>
- g. *Do not give inmate a copy of his written grievance or request form when he submits it (as proof thereof)*<sup>70</sup>
- h. *Do not provide medical staff with SANE (Sexual Assault Nurse Examiner) training or rape kits*<sup>71</sup>
- i. *Upon intake, take several days to classify and separate serious risk inmates from lower risk inmates*<sup>72</sup>
- j. *Have blind spots in common, such as dry storage room, walk-in refrigerator and other areas in the kitchen;*<sup>73</sup>  
*janitorial supply closets;*<sup>74</sup> *and showers, toilet stalls and bathrooms with windowless doors.*<sup>75</sup>

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<sup>69</sup> See, e.g., Tr., J. Dennis, 264:8-265:5 (Sept. 10, 2008) (Northwest Ohio); *id.*, P. Cordova, 218:2-22 (Oct. 1, 2008) (Bernalillo).

<sup>70</sup> See, e.g., Tr., D. Peters, 17:12-18:15 (Nov. 14, 2008) (Culpeper); *id.*, J. Dennis, 315:9-15 (Sept. 10, 2008)(Northwest Ohio); *id.*, R. Easterling, 112:6-14, 113:15-114:5 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Corral, 102:2-9 (Sept. 30, 2008) (Torrance).

<sup>71</sup> See, e.g., Tr., J. Jenkins, 189:7-14, (Nov. 14, 2008) (Culpeper); *id.*, S. Jeter, 313:11-13 (Aug. 27, 2008) (Brevard); *id.*, L. Rhodes, 160:9-161:2 (Sept. 11, 2008) (Southeastern Ohio); *id.*, B. Campbell, 180:13-16 (Sept. 30, 2008) (Torrance); *id.*, K. Valerio, 83:18-84:4 (Oct. 1, 2008) (Bernalillo).

<sup>72</sup> See, e.g., Tr., C. Kuntz, 97:21-100:6 (Sept. 10, 2008) (Northwest Ohio); *id.*, V. Washington, 105:10-106:1 (Nov. 14, 2008) (Culpeper)(no classification for purposes of housing assignment); *id.*, A. Abeyta, 96:1-6 (Oct. 1, 2008) (Bernalillo).

<sup>73</sup> See, e.g., Tr., T. Clay, 58:18-21 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 77:21 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 173:16-19 (Southeastern Ohio); *id.*, J. Tolson, 339:15-16 (Southeastern Ohio).

<sup>74</sup> See, e.g., Tr., T. Parker, 155:15 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 77:21 (Sept. 11, 2008) (Southeastern Ohio); *id.*, P. Cordova, 224:17, 248:3 (Oct. 1, 2008) (Bernalillo); *id.*, M. Varnum, 38:5-6 (Oct. 31, 2008) (Torrance).

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The Panel toured and held hearings on two regional jails in Ohio, one whose surveyed inmates stated that they had experienced no sexual assaults (Northwest Ohio) and one where they reported a high prevalence of sexual victimization (Southeastern Ohio). This afforded the Panel a more common denominator for purposes of making the following comparison and contrast in the features associated with apparent success or failure in deterring sexual assault.

For each of the following, the first feature was true of the Northwest Ohio facility and the second true of the Southeastern Ohio jail:

- a. Direct versus indirect supervision;*<sup>76</sup>
- b. Some versus a lot of mandatory overtime for correctional officers;*<sup>77</sup>
- c. No double occupancy versus double cells;*<sup>78</sup>
- d. Strip searches on camera from waist up versus no video surveillance of strip searches;*<sup>79</sup>
- e. Posters on sexual assault versus no posters;*<sup>80</sup>

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<sup>75</sup> See, e.g., Tr., T. Clay, 58:1-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 52:16-18 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 173:12-13 (Southeastern Ohio).

<sup>76</sup> See, e.g., Tr., S. Hill, 23:16-19 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Eiden, 163:5-9 (Northwest Ohio); *id.*, R. Easterling, 59:13 (Sept. 11, 2008) (Southeastern Ohio).

<sup>77</sup> See, e.g., Tr., C. Eiden, 196:18 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 196:21 (Northwest Ohio); *id.*, J. Conrath, 193:9-14 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Eddy, 254:14-255:4, 255:7-8 (Southeastern Ohio).

<sup>78</sup> See, e.g., Tr., J. Dennis, 275:18-277:4 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 58:11-13, 60:10-15, 90:16-22 (Sept. 11, 2008) (Southeastern Ohio).

<sup>79</sup> See, e.g., Tr., J. Dennis, 318:17-22, 319:14-17 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 77:21-22, 80:13-81:9 (Sept. 11, 2008) (Southeastern Ohio).

<sup>80</sup> See, e.g., Tr., S. Hill, 23:10-11 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Tolson, 323:10-15 (Sept. 11, 2008) (Southeastern Ohio).

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- f. Show inmates video on SA at intake and daily on television versus no video training;<sup>81</sup>*
- g. Health screening is done by nurse versus by correctional officer;<sup>82</sup>*
- h. Large number of programs for inmates versus few;<sup>83</sup>*
- i. Updated PREA policy versus no PREA policy;<sup>84</sup>*
- j. PREA coordinator versus no PREA coordinator;<sup>85</sup> and*
- j. Phone hotline versus no phone.<sup>86</sup>*

In contrast, the two Ohio facilities had at least two common characteristics:

- a. same blind spots - - dry storage room in kitchen; transport to and from facility;<sup>87</sup> and*
- b. both prohibit pornography.<sup>88</sup>*

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<sup>81</sup> See, e.g., Tr., T. Clay, 22:11-12, 21-22 (Sept. 10, 2008) (Northwest Ohio); *id.*, L. Rhodes & J. Conrath, 196:7-12 (Sept. 11, 2008) (Southeastern Ohio).

<sup>82</sup> See, e.g., Tr., S. Garza-Romero, 103:2-4 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 38:1-3 (Sept. 11, 2008) (Southeastern Ohio); *id.*, L. Rhodes, 153:10-17 (Southeastern Ohio).

<sup>83</sup> See, e.g., Tr., S. Hill, 25:4-8, 36:21-22 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Dennis, 270:7-8 (Northwest Ohio); *id.*, R. Easterling, 103-104 (Sept. 11, 2008) (Southeastern Ohio).

<sup>84</sup> See, e.g., Tr., J. Steingass, 177:15-18 (Sept. 10, 2008) (Northwest Ohio); *id.*, T. Parker, 177:19-178:1 (Northwest Ohio); *id.*, J. Tolson, 318:6, 8-11, 319:17-320:7 (Sept. 11, 2008) (Southeastern Ohio).

<sup>85</sup> See, e.g., Tr., J. Dennis, 260:15-20 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Conrath, 191:8 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 318:6, 8-11 (Sept. 11, 2008) (Southeastern Ohio).

<sup>86</sup> See, e.g., Tr., T. Clay, 16:2-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, M. Zartman, 105:1-10 (Sept. 11, 2008, Southeastern Ohio) (hotline only added after *Sexual Victimization Survey* was administered).

<sup>87</sup> See, e.g., Tr., T. Clay, 60:19 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Hill, 61:19 (Northwest Ohio); *id.*, M. Zartman, 82:5, 139:5, 8-9 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 318:6, 8-11 (Southeastern Ohio).

<sup>88</sup> See, e.g., Tr., T. Parker, 187:18-20, 225:4-7 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Eiden, 225:8, 12 (Northwest Ohio); *id.*, M. Zartman, 140:16-18 (Sept. 11, 2008) (Southeastern Ohio).

#### **IV. Best Practices to Lessen the Risk of Rape in U.S. Jails**

The publication of the preceding findings based on the Panel's public hearings and document review (sections III.A. – C.) completes this Panel's responsibility under PREA with respect to jails. The Panel's findings, together with its suggested best practices below, will be considered by BJS as well as the National Prison Rape Elimination Commission. In the Prison Rape Elimination Act, Congress gave to the Commission the exclusive responsibility of recommending to the Attorney General and to the Secretary of Health and Human Services national standards for detecting, preventing, reducing, and punishing rape in correctional facilities.<sup>89</sup> The Commission will propose national standards in early 2009. Under PREA, however, the Commission may not "propose a recommended standard that would impose substantial additional costs on Federal, state, or local prison authorities."<sup>90</sup> The Attorney General then will have one year to publish a final rule adopting national standards.<sup>91</sup>

To assist the Commission in formulating those standards, the Chair of the Commission, the Honorable Reggie Walton, asked the Panel to provide the Commission with a report that would include findings of "best practices" in correctional facilities, based on the Panel's public hearings, site inspections, and review of documents. Accordingly, the Panel offers the following findings on best practices, which PREA authorizes the Panel to do, based on a) the Panel's express mandate in PREA<sup>92</sup>; b) Congress' statutory purposes for PREA<sup>93</sup>; and c) the way it

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<sup>89</sup> 42 U.S.C. § 15606(e)(1).

<sup>90</sup> 42 U.S.C. § 15606(e)(3).

<sup>91</sup> 42 U.S.C. § 15607(a)(1).

<sup>92</sup> PREA directs this Panel to carry out public hearings "to collect evidence to aid in . . . the identification of common characteristics of prisons and prison systems with a high incidence" and a low incidence of sexual assault.

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allocated duties among BJS, this Panel, the Commission, and the Attorney General.<sup>94</sup>

Therefore, the Panel identifies for the Commission, for BJS, and for correctional administrators and policymakers the following list of best practices from the Panel's eight days of hearings involving seven jails, thousands of pages of documents, and sixty-two fact witnesses.

If implemented, the Panel believes these practices would reduce the incidence of sexual assault as well as protect the jail and its correctional staff against false allegations. For example, when an inmate claims that an officer sexually assaulted him or her in a cell, if a jail has installed video cameras and it archives the digital recordings, it will have convincing evidence to prove or disprove whether the accused officer was ever in the area of the cell at the time and place in question. Similarly, when an inmate presents a grievance or requests a medical appointment, jail staff should routinely give the inmate a dated copy thereof; this will discourage false allegations that an alleged rape victim notified an officer to no avail, because if the complaining inmate cannot produce a copy of his note, it suggests that the inmate never tried to report the alleged assault.

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42 U.S.C. § 15603(b)(3)(A). The Panel fulfills this mandate not only by listing those characteristics common to the high- and low-incidence jails, but also by distilling those features into "best practices" based on those listings.

<sup>93</sup> The Commission's request for "best practices" from the Panel comports with the purposes of Congress for PREA, including to "establish a zero-tolerance standard for the incidence of prison [and jail] rape", to "make the prevention of prison rape a top priority in each prison system", to "develop and implement national standards", to "increase the available data and information on the incidence of prison rape" with an eye toward "improving the management and administration of correctional facilities", to "increase the accountability of prison officials", to "protect the Eighth Amendment rights of Federal, State, and local prisoners", to "increase the efficiency and effectiveness of Federal expenditures", and to "reduce the costs that prison [and jail] rape imposes on interstate commerce." 42 U.S.C. § 15602. The Panel offers these "best practices" in furtherance of any and all of these congressional purposes.

<sup>94</sup> Congress made the Panel the exclusive conduit between the BJS national inmate survey and the Commission. The BJS survey of jail inmates was the first in the nation's history and cost taxpayers a considerable sum. If the survey is to be distilled into policy, the correctional facilities that apparently are among the "highest" and "lowest" performers must be identified, inspected, and scrutinized in public hearings. The only body Congress invested with such authority and mandate is this Panel. If the inmate survey is to inform Congress and the national standards ultimately adopted by the Attorney General, it must be digested by this Panel in sworn public testimony. Section IV of this report is the Panel's effort to do this for the Commission and for jail administrators nationwide.

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The logical starting point for best practices are the three factors listed on page 12, *supra* at section C.1., which enumerate the differences between both of the low incidence jails and some or all of the high incidence facilities:

- a. *Jail administrator is demonstrably committed to prevention of SA*<sup>95</sup>
- b. *Most high risk areas in the facility have adequate video camera surveillance.*<sup>96</sup>
- c. *Jail medical staff have some training in diagnosing sexual assault and obtaining evidence of it.*<sup>97</sup>

In addition to these key contrasts between the high- and low-incidence jails, the Panel distilled the following “best practices”:

**1. Training of Staff and Inmates**

- a. Adopt a policy and procedure for preventing, reporting, investigating, and prosecuting sexual assault by either inmates or staff.<sup>98</sup> Ensure compliance with PREA standards.
- b. Appoint a PREA Coordinator who will be accountable for the training of staff and new inmates in PREA and the facility’s zero tolerance policy on sexual assault.<sup>99</sup>
- c. Ensure that the management of the jail (beginning with the jail administrator) believes that sexual assault - - both inmate-on-inmate and staff-on-inmate - - can and will occur in their facilities

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<sup>95</sup> *Compare* Tr., J. Dennis, 260:15-20 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Branch, 9:2-22, 12:2-11, D. Brooks 175:13-176:14 (Nov. 14, 2008) (Culpeper) *with id.*, R. Easterling & M. Zartman, 75:4-76:6 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Tolson, 273:4-6, 289:21-290:16 (Southeastern Ohio).

<sup>96</sup> *Compare* Tr., J. Dennis, 267:14-286:19 (Sept. 10, 2008) (Northwest Ohio); *id.*, D. Sullivan, 318:4-15 (Northwest Ohio); *id.*, J. Jenkins, 140:13-18, 150:11-18, 151:10-15 (Nov. 14, 2008) (Culpeper); *id.*, G. Robertson, 208:4-5 (Aug. 27, 2008) (Brevard).

<sup>97</sup> Tr., S. Garza-Romero 104:19-21 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Lane 186:21-187:3 (Nov. 11, 2008) (Culpeper).

<sup>98</sup> *Cf.* Tr., J. Tolson, 318:6, 8-11, 319:17-320:7 (Sept. 11, 2008) (Southeastern Ohio).

<sup>99</sup> Tr., J. Dennis, 260:15-20 (Sept. 10, 2008) (Northwest Ohio).



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unless they make prevention a high and unequivocal priority. The jail administrator must convincingly demonstrate to staff and inmate alike that zero tolerance is not just aspirational but is literally the policy and practice of that jail. This would be conveyed if the jail administrator appoints herself the PREA coordinator<sup>100</sup> and/or teaches the PREA policy to staff and new inmates.<sup>101</sup>

- d. Provide more and better training of jail staff in the requirements of PREA, the physical and emotional evidence of rape, and the jail's sexual assault policies, and require that staff perform satisfactorily in testing of same, with meaningful career consequences for those who repeatedly fail such testing.<sup>102</sup> The latter may require negotiation with staff labor unions.
- e. Make PREA training - - if not completion of the training academy - - a prerequisite before a new officer can start working in the jail.<sup>103</sup>
- f. Train staff how childhood abuse, sexual abuse, and other trauma uniquely affect and surface among men and women inmates.<sup>104</sup>
- g. Educate new inmates on the facility's PREA policy: that the jail strictly enforces a zero tolerance policy<sup>105</sup>; that explains what constitutes illegal conduct and the fact that it is a prosecutable crime,<sup>106</sup> regardless of "consent." Show a video (especially helpful for illiterate inmates)<sup>107</sup> and give each new inmate a handbook or other written material to keep.<sup>108</sup> Point out the high-

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<sup>100</sup> *Id.* at 260:17-20).

<sup>101</sup> *Id.* at 261:8-14 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Ezell, 27:2-5 (Sept. 30, 2008) (Torrance).

<sup>102</sup> Tr., J. Dennis, 261:8-14 (Sept. 10, 2008) (Northwest Ohio). *See* n. 63, *supra*.

<sup>103</sup> *Cf.* Tr., J. Conrath, 521:18-522:14 (Sept. 11, 2008) (Southeastern Ohio); *id.*, S. Hill 30:16-19 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Jenkins and C. Lane 155:4-11 (Nov. 14, 2008)(Culpeper). *But see* R. Torres 24: 13-14 (October 1, 2008) (Bernalillo)(pre-service training mandatory for new recruits).

<sup>104</sup> Tr., S. Hill, 34:10-16 (Sept. 10, 2008) (Northwest Ohio).

<sup>105</sup> *Cf.* Tr., J. Tolson, 341:3-7 (Sept. 11, 2008) (Southeastern Ohio).

<sup>106</sup> *Cf.* Tr., R. Lucero, 95:16-17 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 95:18 (Torrance).

<sup>107</sup> Tr., J. Dennis, 332:11-12 (Sept. 10, 2008) (Northwest Ohio).

<sup>108</sup> Tr., T. Clay, 22:7-12 (Sept. 10, 2008) (Northwest Ohio).

risk areas and times in the facility and how to avoid sexual victimization. Implement a peer training program in which appropriately-selected and -trained inmates teach new inmates about how to avoid sexual victimization in that facility and how to report threats and assaults. Repeat the PREA video on the jail television network regularly in all cellblocks.

- h. In dayrooms and hallways, prominently install bi-lingual posters that clearly state that sexual misconduct is illegal and that lists the confidential means (including a phone hotline)<sup>109</sup> by which it may be reported to authorities.
- i. Include contractors and volunteers in PREA staff training.<sup>110</sup>

## **2. Classification**

- a. When making inmate housing assignments, staff should determine and consider, among other factors, the risk of sexual predation or victimization of the inmate. To do this, staff must use a risk assessment instrument that includes questions relevant to the characteristics of potential perpetrators and victims, including sexual orientation. *See* lists in section II.B., *supra* at pp. 4 - 9. If the risk assessment instrument were entered by computer at the time of intake, it would be relatively simple to develop software that would flag those factors of a new inmate which would make him or her a higher risk of becoming a sexual victim or predator if assigned to a particular proposed cellmate.
- b. Whenever possible, interview new inmates *privately* when assessing them for classification, job assignments, and housing assignments. Inmates must be assured of confidentiality so they will be more open to discussing sexual orientation, whether they were a victim of sexual assault in the past, and the like. Such questions should be included in an assessment tool. Train staff in administering this tool.
- c. Do not mix in the same cell violent and non-violent pre-trial detainees.<sup>111</sup> Therefore, until a new inmate is risk-assessed, and as funding permits, he or she must be single-celled.<sup>112</sup>

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<sup>109</sup> *Cf.* Tr., J. Tolson, 343:3-5 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Lucero, 95:16-17 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 95:18 (Sept. 30, 2008) (Torrance).

<sup>110</sup> Tr., S. Hill, 24:5-20 (Sept. 10, 2008) (Northwest Ohio).

### **3. Surveillance**

- a. At the beginning of each shift, identify high-risk predators or victims to correctional officers in housing units and control rooms by coded abbreviation next to the inmate's name, so that officers can be alerted to the risk.
- b. Video Surveillance. As funding permits:
  - 1) Install camera with 360-degree "fish eye" lens in middle of ceiling above dormitory-style, bunk-bed cellblocks.
  - 2) Install several secret cameras in locations known only to select supervisors, but announce to staff and inmates the fact of their existence. Even if not monitored continuously, this will have a preventive effect beyond the actual scope of the cameras' views.
  - 3) Have staff monitor video cameras, at least periodically. Do not depend on the officer or officers in the control unit to be the sole monitor of the video displays.
  - 4) Ensure that video cameras are recording 24 hours per day and that the "tapes" are archived for at least 90 days, in the event that an assault is alleged in the recorded area.
- c. Identify and map "blind spots" where sexual assault is a higher risk: e.g., "change out" room in booking;<sup>113</sup> dry storage room, walk-in refrigerator and other areas in the kitchen;<sup>114</sup> janitorial supply closets;<sup>115</sup> showers, toilet stalls and doored bathrooms;<sup>116</sup> behind stairwells;<sup>117</sup> medical lab and exam rooms;<sup>118</sup> cells of

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<sup>111</sup> Tr., M. Zartman, 61:21-62:21 (Sept. 11, 2008) (Southeastern).

<sup>112</sup> Tr., A. Abeyta, 96:1-6 (Oct. 1, 2008) (Bernalillo).

<sup>113</sup> Tr., R. Easterling, 77:21-22, 78:11-12 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Eddy, 233:8-9 (Southeastern Ohio).

<sup>114</sup> Tr., T. Clay, 58:18-21 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 77:21 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 173:16-19 (Southeastern Ohio); *id.*, J. Tolson, 339:15-16 (Southeastern Ohio).

<sup>115</sup> Tr., T. Parker, 155:15 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 77:21 (Sept. 11, 2008) (Southeastern Ohio); *id.*, P. Cordova, 224:17, 248:3 (Oct. 1, 2008) (Bernalillo); *id.*, M. Varnum, 38:5-6 (Oct. 31, 2008) (Torrance).

<sup>116</sup> Tr., T. Clay, 58:1-3 (Sept. 10, 2008) (Northwest Ohio); *id.*, R. Easterling, 52:16-18 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Conrath, 173:12-13 (Southeastern Ohio).

<sup>117</sup> (Tr., M. Varnum, 37:21-23 (Oct. 31, 2008) (Torrance).

<sup>118</sup> Tr., T. Clay, 60:15-16 (Sept. 10, 2008) (Northwest Ohio); *id.*, J. Steingass, 205:3 (Northwest Ohio).

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inmates who are high risk of being victims or predators;<sup>119</sup> classrooms; laundry;<sup>120</sup> library;<sup>121</sup> etc. For those higher-risk areas:

- 1) Deploy correctional officers accordingly;
  - 2) Install more video cameras in “blind spots, cognizant of privacy concerns<sup>122</sup>,”
  - 3) Hard-wire lights so they remain “on” and cannot be turned off.<sup>123</sup>
- d. During general population time, cell doors should remain open<sup>124</sup> and inmates should be prohibited from entering any but their own cell.
- e. Except in emergencies and to the extent permissible by employment law, limit those who participate in or observe strip searches of inmates to correctional officers of the same sex as the inmate. Except in emergencies or upon reasonable suspicion of contraband and to the extent permissible by employment law, prohibit cross-gender patdowns (e.g., female inmates by male officers).
- f. As much as possible and to the extent permissible by employment law, ensure that correctional officers assigned to floor roving during shower times or assigned to the floor of the housing units during night shifts are of the same sex as the inmates in that unit.
- g. In future construction, utilize better jail designs to minimize blind spots (i.e., better lines of sight into cells and showers).
- h. Place staff offices inside housing units, so staff are more present and familiar with their inmates and the environment.

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<sup>119</sup> Tr., R. Easterling, 77:19-20 (Sept. 11, 2008) (Southeastern Ohio); *id.*, M. Varnum, 38:6-12 (Oct. 31, 2008) (Torrance).

<sup>120</sup> Tr., J. Conrath, 173:21-22 (Sept. 11, 2008) (Southeastern Ohio).

<sup>121</sup> Tr., T. Parker, 155:12-14 (Sept. 10, 2008) (Northwest Ohio).

<sup>122</sup> For example, a shower stall can have a curtain that reveals feet and head but provides appropriate privacy.

<sup>123</sup> Tr., S. Hill, 57:6 (Sept. 10, 2008) (Northwest Ohio).

<sup>124</sup> Tr., M. Zartman, 25:7-10, 20, 22 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. VanBibber, 214:15-215:7 (Southeastern Ohio).

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- i. Install windows in doors and walls that conceal high-risk areas (dry storage room, janitorial supply closets, medical lab and exam rooms,<sup>125</sup> etc.).
- j. Remove blinds from windows. Where privacy is required (e.g., medical exam), leave door slightly open, have a correctional officer present in the room, and use a screen that blocks genitalia but reveals feet.

**4. Reporting**

- a. Ensure that inmates know that they may report threats or occurrences of sexual assault – either inmate-on-inmate or staff-on-inmate – to *any* staff member, contractor or volunteer, not just the correctional officers or shift supervisor in their housing unit.
- b. Establish an effective system for tracking victim complaints or inmate grievances; e.g., when an inmate hands to a staff member a medical request or grievance, have the receiving officer initial it and record the date and time, and then give the inmate a carbon copy immediately, even before management responds to it, lest it be “lost” in the system.<sup>126</sup> This policy will protect staff against false allegations that the alleged victim repeatedly tried to report a sexual assault, if the accuser cannot produce his or her receipted copy of any such grievance or request form.
- c. Establish a telephone hotline whereby inmates can report threats and sexual victimization confidentially, discretely, and directly to the office of the prosecutor or the facility’s investigator.<sup>127</sup> Explain in conspicuous posters and in the orientation video on sexual assault that it is a crime that will be referred for prosecution and that the phone tip-line is for rape victims, among others.<sup>128</sup>
- d. Locate on a site map where sexual assaults have occurred or may occur in the facility and deploy correctional staff accordingly.

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<sup>125</sup> Tr., J. Corral, 70:18 (Sept. 30, 2008) (Torrance).

<sup>126</sup> Tr., R. Foster, 170:15-20 (Aug. 27, 2008) (Brevard); *cf. id.*, R. Easterling, 112:6-14, 113:15-114:5 (Sept. 11, 2008) (Southeastern Ohio); *id.*, J. Corral, 102:2-9 (Sept. 30, 2008) (Torrance).

<sup>127</sup> Tr., T. Clay, 15:11-16:8 (Sept. 10, 2008) (Northwest Ohio); *id.*, M. Zartman, 105:1-10 (Sept. 11, 2008) (Southeastern Ohio) (hotline added after *Sexual Victimization Survey* was administered); *id.*, R. Lucero, 95:16-21 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 96:7-17 (Torrance).

<sup>128</sup> *Cf. Tr.*, R. Lucero, 95:16-21 (Sept. 30, 2008) (Torrance); *id.*, J. Corral, 96:7-17 (Torrance).

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- e. In the absence of a telephonic hotline, allow inmates to request to speak with non-family outsiders (e.g., clergy, facility investigator) outside the presence of the accused predator.<sup>129</sup>
- f. Install two-way intercom in cells, permitting inmate to call and allowing officers to eavesdrop.<sup>130</sup>
- g. Establish close control and supervision over staff who have access to remote, higher-risk areas (e.g., laundry, commissary, classroom), including strict accounting of who checks out keys to those less-supervised areas. An electronic control box for distribution and tracking of keys is desirable.<sup>131</sup>
- h. Encourage the jail administrator and senior management to be available to inmates for conversation at one meal per day.
- i. The jail administrator should inform staff that failure to report sexual assault or staff sexual misconduct is grounds for discharge.

**5. Investigation**

- a. Designate and train Sexual Assault Response Team on staff.<sup>132</sup>
- b. Train medical staff in forensic procedure to preserve evidence of reported sexual assault.
- c. Have independent (i.e., not part of the jail) investigators conduct or at least oversee any investigation of sexual victimization.
- d. Partner with rape crisis center or other outside victim services agency, so rape victim can receive timely help.<sup>133</sup>

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<sup>129</sup> Cf. Tr., J. Tolson, 343:15-19 (Sept. 11, 2008) (Southeastern Ohio).

<sup>130</sup> Tr., R. Lucero 151:2-6, 151:14-17, 150:20, 151:1 (Sept. 30, 2008) (Torrance); *id.*, F. Maestas, 205:11-15, 206:3 (Oct. 1, 2008) (Bernalillo).

<sup>131</sup> Tr., S. Hill, 56:10-11 (Sept. 10, 2008) (Northwest Ohio).

<sup>132</sup> Cf. Tr., B. Campbell, 185:4-9 (Sept. 30, 2008) (Torrance).

<sup>133</sup> Tr., S. Hill, 38:1-3 (Sept. 10, 2008) (Northwest Ohio); *cf. id.*, B. Campbell, 185:4-9 (Sept. 30, 2008) (Torrance).

## **6. Prosecution**

- a. The jail administrator should communicate and meet regularly with county prosecutor, so as to develop cooperative rapport between offices and to understand prosecutor's priorities and what minimum evidence he/she needs to bring cases of staff-on-inmate and inmate-on-inmate sexual victimization.<sup>134</sup>
- b. Refer staff-on-inmate sexual misconduct to the prosecutor, even if the accused staff or contractor has already resigned.<sup>135</sup>
- c. Refer for and urge prosecution of any sexual assault, regardless whether it did or did not appear "consensual."<sup>136</sup>
- d. Publicize among staff any case of staff sexual misconduct and its negative consequences (dismissal, felony prosecution). Applicable privacy law may require that the jail administrator omit the name or other identifying information about the disciplined staff member.

## **7. Relevant Policies and Practices**

The Panel observed the not-surprising phenomenon that jails often suffer from inadequate funding, which can have adverse effects in many areas of security and safety, for inmates and staff alike. The following recommendations obviously are subject to the availability of adequate funding:

- a. Except in emergencies, do not routinely require mandatory overtime for correctional officers. Ensure that officers, especially those who often volunteer for overtime, do not establish a pattern of working in the same location in the jail.
- b. When seeking their Board's approval of PREA policy or budget items necessary to reduce the risk of sexual victimization, multi-county or multi-jurisdictional regional jails may have difficulty getting a quorum at Board meetings and/or getting Board representatives with sufficient authority and corrections experience. Therefore, such jails should consider processes for

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<sup>134</sup> Cf. Tr., J. Dennis, 304:1-8 (Sept. 10, 2008) (Northwest Ohio).

<sup>135</sup> Cf. Tr., R. Easterling, 40:11-17 (Sept. 11, 2008) (Southeastern Ohio); *id.*, M. Zartman, 137:1-3 (Southeastern Ohio); *id.*, J. Ibarra, 252:21-253:9 (Sept. 30, 2008) (Torrance).

<sup>136</sup> Cf. Tr., R. Easterling, 143:5-8 (Sept. 11, 2008) (Southeastern Ohio).

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more efficient approval of policy. For example, a multi-county facility might lower the quorum requirement and allow adoption of policy on the basis of an affirmative vote of a majority of those Board members in attendance.

- c. Subject to negotiation in collective bargaining agreements, provide jail administrators with greater flexibility in shift arrangements (e.g., permit shorter shifts, such as 10- to 12-hour shifts instead of 16-hour shifts).
- d. Maintain adequate numbers of correctional officers.<sup>137</sup>
- e. Offer higher pay and/or better benefits to jail staff so as to attract better recruits and retain experienced staff.
- f. Further enhance the careers of correctional officers by certifying them to be law enforcement officers. (This may not be possible for privately-owned facilities.)
- g. Enforce a policy strictly prohibiting a staff member from being alone with an inmate during a medical exam.<sup>138</sup>
- h. Replace inmate idleness with work and programming (vocational, educational, chemical dependency therapy, etc.).<sup>139</sup>
- i. Reduce jail overcrowding.<sup>140</sup> This may require more money, faster adjudication of pre-trial detainees, and/or amendment of sentencing guidelines. Otherwise, an overcrowded jail will inevitably divert staff from programming to supervision.

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<sup>137</sup> The jails with the highest reported incidence of sexual victimization were seriously understaffed. (Tr., R. Easterling, 33:11-12, 14-15, 54:21-22 (Sept. 11, 2008) (Southeastern Ohio); *id.*, M. Zartman, 100:4-11, 13-14 (Southeastern Ohio); *id.*, J. Eddy, 234:10-11 (Southeastern Ohio); *id.*, R. Lucero, 132:6-7, 9, 12-13 (Sept. 30, 2008) (Torrance); *id.*, R. Ezell, 306:14-15 (Torrance); *id.*, R. Torres, 21:6-7 (Oct. 1, 2008) (Bernalillo). However, one of the “low incidence” jails was at or nearly fully-staffed. (Tr., T. Parker, 197:16-19 (Sept. 10, 2008) (Northwest Ohio).

<sup>138</sup> Tr., L. Rhodes, 156:17-18, 157:20, 158:1, 4 (Sept. 11, 2008) (Southeastern Ohio)).

<sup>139</sup> Tr., S. Hill, 25:4-8, 36:21-37:5 (Sept. 10, 2008) (Northwest Ohio); *id.*, S. Jeter, 325:17-326:25 (Aug. 27, 2008) (Brevard); *id.*, R. Easterling & M. Zartman, 102:13-103:9 (Sept. 11, 2008) (Southeastern Ohio); *id.*, R. Ezell, 32:2-33:6 (Sept. 30, 2008) (Torrance); *id.*, J. Dantis, 9:21-11:16 (Oct. 1, 2008) (Bernalillo).

<sup>140</sup> Tr., G. Robertson, 183:21, 242:24-243:4 (Aug. 27, 2008) (Brevard); *id.*, O. Clayton, 286:19 (Brevard); J. Dennis, 275:18-277:4 (Sept. 10, 2008) (Northwest Ohio)).



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- j. Ban pornography (hard- and “soft”-core) among inmates, especially those who have a history of sexual assault or are assessed as higher risks of becoming sexual predators.<sup>141</sup>
- k. As much as practicable without compromising their safety, provide sexual assault victims or those at higher risk of assault with safe housing in a “safekeeping” cellblock but with the same programming and privileges as general population (i.e., protect the victim without penalizing him or her for reporting).
- l. Make available more beds in administrative segregation, safekeeping, close custody, and other areas for inmates assessed to be at higher risk of being sexual victims, e.g. sex offenders<sup>142</sup> and inmates with mental illness or mental disability.<sup>143</sup> Again this may require additional staffing and beds.
- m. Segregate transgendered inmates and, subject to staffing limitations, provide them with enhanced security but with the same programming and privileges of general population inmates.
- n. Maintain single cells and/or dormitory-style bunking, avoiding double cells.<sup>144</sup>

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<sup>141</sup> See, e.g., Tr., T. Parker, 187:18-20, 225:4-7 (Sept. 10, 2008) (Northwest Ohio); *id.*, C. Eiden, 225:8, 12 (Northwest Ohio); *id.*, D. Peters, 91:8-10 (Nov. 14, 2008) (Culpeper); *id.*, S. Jeter, 308:25 (Aug. 27, 2008) (Brevard); *id.*, M. Zartman, 140:16-18 (Sept. 11, 2008) (Southeastern Ohio).

<sup>142</sup> Cf. Tr., R. Easterling, 96:5-9 (Sept. 11, 2008) (Southeastern Ohio).

<sup>143</sup> Tr., R. Easterling, 124:17-20 (Sept. 11, 2008) (Southeastern Ohio); *id.*, M. Zartman, 124:21-22 (Southeastern Ohio); cf. *id.*, S. Garza-Romero, 142:14-15, 17-18 (Sept. 10, 2008) (Northwest Ohio)).

<sup>144</sup> Tr., J. Dennis, 275:21-276:3 (Sept. 10, 2008) (Northwest Ohio)).